

FILED MAR 20 1989

SENATE FILE 506
BY COMMITTEE
ON JUDICIARY

(SUCCESSOR TO SSB 127)

Passed Senate, Date 3-27-89 (p. 1022) Passed House, Date 4-4-89 (p. 1215)
Vote: Ayes 48 Nays 0 Vote: Ayes 98 Nays 0
Approved 4-14-89 (p. 1462)

A BILL FOR

1 An Act relating to the administration of small estates.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 506

1 Section 1. Section 635.1, Code 1989, is amended to read as
2 follows:

3 635.1 WHEN APPLICABLE.

4 1. When the gross value of the probate and nonprobate
5 property of a decedent subject to the jurisdiction of this
6 state does not exceed fifty thousand dollars in property
7 subject to taxation under section 450.3, upon the petition of
8 the spouse or a child of the decedent, the clerk shall issue
9 to a resident of the state of Iowa designated by the
10 petitioner letters of appointment of executor or administrator
11 for administration of a small estate if either of the
12 following occur:

13 a. The decedent dies intestate and is survived by a
14 spouse, or children, or both.

15 b. The decedent leaves a last will and testament ~~and that~~
16 ~~will-is-admitted-to-probate-but-there-is-no-present~~
17 ~~administration~~ and the only beneficiaries are a spouse, or
18 children, or both.

19 2. When the gross value of the probate and nonprobate
20 property of a decedent subject to the jurisdiction of this
21 state does not exceed fifteen thousand dollars in property
22 subject to taxation under section 450.3, upon the petition of
23 a parent or grandchild of the decedent the clerk shall issue
24 to a resident of the state of Iowa designated by the
25 petitioner, letters of appointment as executor or
26 administrator for administration of a small estate if either
27 of the following occur:

28 a. The decedent dies intestate without a surviving spouse
29 or ~~issue~~ children but with a surviving parent or parents or
30 surviving grandchild or grandchildren.

31 b. The decedent dies without a surviving spouse or ~~issue~~
32 children and leaves a last will and testament ~~and that will-is~~
33 ~~admitted-to-probate-but-there-is-no-present-administration~~ and
34 the only beneficiaries are a surviving parent or parents or
35 surviving grandchild or grandchildren.

1 3. When the entire estate of the decedent does not exceed
2 the sum of ten thousand dollars after deducting the debts, as
3 defined in chapter 450, upon the petition of a person related
4 within the fourth degree of consanguinity to the decedent, the
5 clerk shall issue to a resident of the state of Iowa
6 designated by the petitioner, letters of appointment as
7 executor or administrator for administration of a small estate
8 if either of the following occur:

9 a. The decedent dies intestate without a surviving spouse,
10 issue, or parent, but with heirs that are all within the
11 fourth degree of consanguinity.

12 b. The decedent dies without a surviving spouse, issue, or
13 parent, and leaves a last will and testament ~~and that will is~~
14 ~~admitted to probate but there is no present administration~~ and
15 the only beneficiaries are surviving persons related to the
16 decedent within the fourth degree of consanguinity.

17 Sec. 2. Section 635.2, Code 1989, is amended to read as
18 follows:

19 635.2 PETITION REQUIREMENTS.

20 The petition for administration of a small estate must
21 contain the following:

22 1. The name, domicile, and date of death of the decedent.

23 2. The name and address of the surviving spouse, if any,
24 the name and address of each child of the decedent, ~~and~~ the
25 name and address of each parent of the decedent, if the parent
26 is an heir or beneficiary of the decedent, and the name and
27 address of each grandchild of the decedent if the grandchild
28 is an heir or beneficiary of the decedent, unless none are
29 beneficiaries under the will of the decedent and the name and
30 address of each relative within the fourth degree of
31 consanguinity of the decedent who is an heir or beneficiary of
32 the decedent, unless none are beneficiaries under the will of
33 the decedent.

34 3. ~~Whether a will has been admitted without present~~
35 ~~administration~~ the decedent died intestate or testate, and, if

1 testate, the date of the will.

2 4. A statement that the probate and nonprobate property of
3 the decedent subject to the jurisdiction of this state does
4 not have an aggregate gross value of more than the amount
5 permitted under the provisions of section 635.1.

6 5. ~~A statement that petitioner agrees to be personally~~
7 ~~liable for the payment of debts and charges against the estate~~
8 ~~to the extent the assets of the estate would be subject to the~~
9 ~~payment of those debts and charges under estate administration~~
10 ~~other than for a small estate. The name and address of the~~
11 ~~proposed executor or administrator.~~

12 6. ~~A statement that petitioner agrees to account to any~~
13 ~~personal representative for all assets of the estate coming~~
14 ~~into the possession of petitioner, if a personal~~
15 ~~representative is appointed for administration of the estate~~
16 ~~other than for a small estate.~~

17 Sec. 3. Section 635.7, Code 1989, is amended to read as
18 follows:

19 635.7 REPORT AND INVENTORY -- SHOWING GREATER GROSS VALUE.

20 The executor or administrator is required to file the
21 report and inventory for which provision is made in section
22 633.361. Nothing in sections 635.1 to 635.3 shall exempt the
23 executor or administrator from complying with the requirements
24 of section 422.27, 450.22 or 450.58, or the clerk from
25 complying with the requirements of section 633.481. However,
26 ~~the executor or administrator is exempted from filing the~~
27 ~~certificate of the county treasurer in the county in which the~~
28 ~~estate is pending that all personal taxes due and to become~~
29 ~~due have been paid in full.~~ If the inventory and report shows
30 assets subject to the jurisdiction of this state which exceed
31 the total gross value of the amount permitted the small estate
32 under the applicable provision of section 635.1, the clerk
33 shall terminate the letters issued under section 635.1 without
34 prejudice to the rights of persons who delivered property as
35 permitted under section 635.3. The executor or administrator

1 shall then be required to petition for administration of the
2 estate as provided in chapter 633.

3 Sec. 4. Section 635.8, Code 1989, is amended to read as
4 follows:

5 635.8 CLOSING BY SWORN STATEMENT.

6 1. Unless an interested person petitions for
7 administration of the estate on a basis other than for a small
8 estate within one-year ~~four months~~ after letters of
9 administration for a small estate are issued, if those letters
10 of administration are not terminated under the provisions of
11 section 635.7, any property of the estate shall then be free
12 of debts and charges, unless a claim has been filed as
13 provided in section 635.13. ~~However, the executor or~~
14 ~~administrator of the small estate shall not be exonerated from~~
15 ~~debts and charges of the estate except as otherwise provided~~
16 ~~in this chapter, and shall be subject to personal liability to~~
17 ~~the extent provided in section 635.27, subsection 5, for the~~
18 ~~period of time otherwise provided by law.~~ The executor or
19 administrator is personally liable for the payment of debts
20 and charges against the estate to the extent the assets of the
21 estate would be subject to the payment of those debts and
22 charges under estate administration other than a small estate.

23 2. The executor or administrator shall file with the court
24 a closing statement within nine ~~six~~ months from the date of
25 issuance of the letters of appointment, and the closing
26 statement shall be verified or affirmed under penalty of
27 perjury, stating all of the following:

28 a. To the best knowledge of the person, the gross value of
29 the estate subject to the jurisdiction of this state does not
30 exceed the amount permitted the small estate under the
31 applicable provision of section 635.1.

32 b. The estate has been fully administered, dispersed, and
33 distributed to persons entitled ~~thereto~~ to the estate and a
34 description of the disbursement and distribution of the estate
35 including an accurate description of all the real estate of

1 which the decedent died seized, stating the nature and extent
2 of the interest therein in the real estate and its
3 disposition.

4 c. A copy of the closing statement has been sent to all
5 distributees of the estate and to all known creditors and a
6 full account in writing of the administration of the estate
7 has been furnished to the distributees whose interests are
8 affected.

9 3. If no actions or proceedings involving the estate are
10 pending in the court one-year sixty days after the closing
11 statement is filed, the estate shall close and the clerk shall
12 discharge the administrator or executor.

13 4. The closing statement shall include a statement as to
14 the amount of fees paid for services rendered by the executor
15 or administrator and the executor's or administrator's
16 attorney in administration of the estate. The fees for the
17 executor or administrator and the executor's or
18 administrator's attorney shall not be in excess of the fees
19 permitted by section 633.197.

20 5. A closing statement filed under this section has the
21 same effect as final settlement of the estate under chapter
22 633.

23 Sec. 5. Section 635.9, Code 1989, is amended to read as
24 follows:

25 635.9 PETITION FOR ADMINISTRATION ON OTHER BASIS.

26 At any time within one-year four months after letters of
27 administration are issued for a small estate, any interested
28 person may petition for appointment of an executor or
29 administrator for administration of the estate other than as a
30 small estate. In that event the clerk shall notify the person
31 holding letters of appointment for administration of a small
32 estate by ordinary mail not less than ten days before a
33 hearing on the petition. The notice shall be directed to the
34 executor or administrator of the small estate at the
35 executor's or administrator's last known address as reflected

1 in the petition filed under section 635.2 or the report and
2 inventory filed under section 633.361, whichever is filed
3 later.

4 Sec. 6. Section 635.13, Code 1989, is amended to read as
5 follows:

6 635.13 NOTICE -- CLAIMS.

7 ~~The executor or administrator of a small estate may publish~~
8 ~~notice pursuant to section 633.230 or section 633.304. If a~~
9 petition for administration of a small estate of a decedent is
10 granted, the notice as provided in section 633.230 or section
11 633.304 shall indicate administration as a small estate.

12 Creditors having claims against the estate must file them with
13 the clerk within four months from the second publication of
14 the notice. The notice has the same force and effect as in
15 chapter 633.

16 Sec. 7. Section 635.14, Code 1989, is amended to read as
17 follows:

18 635.14 MINIMUM TIME BEFORE DISTRIBUTION.

19 The executor or administrator shall not distribute property
20 of the estate not exempt from execution, prior to ~~sixty-days~~
21 four months after the issuance of the letters of appointment.

22 EXPLANATION

23 This bill provides for the administration by a grandchild
24 of a small estate where gross value of the estate does not
25 exceed \$15,000. The bill also provides that the name and
26 address of any surviving grandchild is to be included in the
27 petition for administration if the grandchild is an heir or
28 beneficiary of the decedent.

29 The executor or administrator remains personally liable for
30 the payment of debts and charges against the estate to the
31 same extent as an executor or administrator of any other
32 estate. The time period within which the executor or
33 administrator is to file a closing statement is shortened from
34 nine to six months. The estate is to be closed 60 days
35 (previously one year) after the filing of the closing

1 statement is filed, if no actions or proceedings involving the
2 estate are pending. The time within which a person may
3 petition for appointment of an executor or administration of
4 the estate other than as a small estate is shortened from one
5 year to four months after letters of administration are
6 issued. Notice of the granting of a petition for
7 administration as a small estate is to indicate administration
8 as a small estate.

9 The executor or administrator is not to distribute any
10 property not exempt from execution, prior to four months
11 (previously 60 days) after the issuance of the letters of
12 appointment.

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VAN, CH.
DOYLE
GENTLEMAN

SSB 127
JUDICIARY

SENATE FILE 506
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the administration of small estates.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 635.1, Code 1989, is amended to read as
2 follows:

3 635.1 WHEN APPLICABLE.

4 1. When the gross value of the probate and nonprobate
5 property of a decedent subject to the jurisdiction of this
6 state does not exceed fifty thousand dollars in property
7 subject to taxation under section 450.3, upon the petition of
8 the spouse or a child of the decedent, the clerk shall issue
9 to a resident of the state of Iowa designated by the
10 petitioner letters of appointment of executor or administrator
11 for administration of a small estate if either of the
12 following occur:

13 a. The decedent dies intestate and is survived by a
14 spouse, or children, or both.

15 b. The decedent leaves a last will and testament ~~and that~~
16 ~~will is admitted to probate but there is no present~~
17 ~~administration~~ and the only beneficiaries are a spouse, or
18 children, or both.

19 2. When the gross value of the probate and nonprobate
20 property of a decedent subject to the jurisdiction of this
21 state does not exceed fifteen thousand dollars in property
22 subject to taxation under section 450.3, upon the petition of
23 a parent or grandchild of the decedent the clerk shall issue
24 to a resident of the state of Iowa designated by the
25 petitioner, letters of appointment as executor or
26 administrator for administration of a small estate if either
27 of the following occur:

28 a. The decedent dies intestate without a surviving spouse
29 or ~~issue~~ children but with a surviving parent or parents or
30 surviving grandchild or grandchildren.

31 b. The decedent dies without a surviving spouse or ~~issue~~
32 children and leaves a last will and testament ~~and that will is~~
33 ~~admitted to probate but there is no present administration~~ and
34 the only beneficiaries are a surviving parent or parents or
35 surviving grandchild or grandchildren.

1 3. When the entire estate of the decedent does not exceed
2 the sum of ten thousand dollars after deducting the debts, as
3 defined in chapter 450, upon the petition of a person related
4 within the fourth degree of consanguinity to the decedent, the
5 clerk shall issue to a resident of the state of Iowa
6 designated by the petitioner, letters of appointment as
7 executor or administrator for administration of a small estate
8 if either of the following occur:

9 a. The decedent dies intestate without a surviving spouse,
10 issue, or parent, but with heirs that are all within the
11 fourth degree of consanguinity.

12 b. The decedent dies without a surviving spouse, issue, or
13 parent, and leaves a last will and testament ~~and that will is~~
14 ~~admitted to probate but there is no present administration~~ and
15 the only beneficiaries are surviving persons related to the
16 decedent within the fourth degree of consanguinity.

17 Sec. 2. Section 635.2, Code 1989, is amended to read as
18 follows:

19 635.2 PETITION REQUIREMENTS.

20 The petition for administration of a small estate must
21 contain the following:

22 1. The name, domicile, and date of death of the decedent.

23 2. The name and address of the surviving spouse, if any,
24 the name and address of each child of the decedent, and the
25 name and address of each parent of the decedent, if the parent
26 is an heir or beneficiary of the decedent, and the name and
27 address of each grandchild of the decedent if the grandchild
28 is an heir or beneficiary of the decedent, unless none are
29 beneficiaries under the will of the decedent and the name and
30 address of each relative within the fourth degree of
31 consanguinity of the decedent who is an heir or beneficiary of
32 the decedent, unless none are beneficiaries under the will of
33 the decedent.

34 3. Whether ~~a will has been admitted without present~~
35 administration the decedent died intestate or testate, and, if

1 testate, the date of the will.

2 4. A statement that the probate and nonprobate property of
3 the decedent subject to the jurisdiction of this state does
4 not have an aggregate gross value of more than the amount
5 permitted under the provisions of section 635.1.

6 5. ~~A statement that petitioner agrees to be personally~~
7 ~~liable for the payment of debts and charges against the estate~~
8 ~~to the extent the assets of the estate would be subject to the~~
9 ~~payment of those debts and charges under estate administration~~
10 ~~other than for a small estate. The name and address of the~~
11 ~~proposed executor or administrator.~~

12 6. ~~A statement that petitioner agrees to account to any~~
13 ~~personal representative for all assets of the estate coming~~
14 ~~into the possession of petitioner, if a personal~~
15 ~~representative is appointed for administration of the estate~~
16 ~~other than for a small estate.~~

17 Sec. 3. Section 635.7, Code 1989, is amended to read as
18 follows:

19 635.7 REPORT AND INVENTORY -- SHOWING GREATER GROSS VALUE.

20 The executor or administrator is required to file the
21 report and inventory for which provision is made in section
22 633.361. Nothing in sections 635.1 to 635.3 shall exempt the
23 executor or administrator from complying with the requirements
24 of section 422.27, 450.22 or 450.58, or the clerk from
25 complying with the requirements of section 633.481. However,
26 ~~the executor or administrator is exempted from filing the~~
27 ~~certificate of the county treasurer in the county in which the~~
28 ~~estate is pending that all personal taxes due and to become~~
29 ~~due have been paid in full.~~ If the inventory and report shows
30 assets subject to the jurisdiction of this state which exceed
31 the total gross value of the amount permitted the small estate
32 under the applicable provision of section 635.1, the clerk
33 shall terminate the letters issued under section 635.1 without
34 prejudice to the rights of persons who delivered property as
35 permitted under section 635.3. The executor or administrator

1 shall then be required to petition for administration of the
2 estate as provided in chapter 633.

3 Sec. 4. Section 635.8, Code 1989, is amended to read as
4 follows:

5 635.8 CLOSING BY SWORN STATEMENT.

6 1. Unless an interested person petitions for
7 administration of the estate on a basis other than for a small
8 estate within ~~one-year~~ four months after letters of
9 administration for a small estate are issued, if those letters
10 of administration are not terminated under the provisions of
11 section 635.7, any property of the estate shall then be free
12 of debts and charges, unless a claim has been filed as
13 provided in section 635.13. ~~However, the executor or~~
14 ~~administrator of the small estate shall not be exonerated from~~
15 ~~debts and charges of the estate except as otherwise provided~~
16 ~~in this chapter, and shall be subject to personal liability to~~
17 ~~the extent provided in section 635.2, subsection 5, for the~~
18 ~~period of time otherwise provided by law.~~ The executor or
19 administrator is personally liable for the payment of debts
20 and charges against the estate to the extent the assets of the
21 estate would be subject to the payment of those debts and
22 charges under estate administration other than a small estate.

23 2. The executor or administrator shall file with the court
24 a closing statement within ~~nine~~ six months from the date of
25 issuance of the letters of appointment, and the closing
26 statement shall be verified or affirmed under penalty of
27 perjury, stating all of the following:

28 a. To the best knowledge of the person, the gross value of
29 the estate subject to the jurisdiction of this state does not
30 exceed the amount permitted the small estate under the
31 applicable provision of section 635.1.

32 b. The estate has been fully administered, dispersed, and
33 distributed to persons entitled thereto to the estate and a
34 description of the disbursement and distribution of the estate
35 including an accurate description of all the real estate of

1 which the decedent died seized, stating the nature and extent
2 of the interest therein in the real estate and its
3 disposition.

4 c. A copy of the closing statement has been sent to all
5 distributees of the estate and to all known creditors and a
6 full account in writing of the administration of the estate
7 has been furnished to the distributees whose interests are
8 affected.

9 3. If no actions or proceedings involving the estate are
10 pending in the court one-year sixty days after the closing
11 statement is filed, the estate shall close and the clerk shall
12 discharge the administrator or executor.

13 4. The closing statement shall include a statement as to
14 the amount of fees paid for services rendered by the executor
15 or administrator and the executor's or administrator's
16 attorney in administration of the estate. The fees for the
17 executor or administrator and the executor's or
18 administrator's attorney shall not be in excess of the fees
19 permitted by section 633.197.

20 5. A closing statement filed under this section has the
21 same effect as final settlement of the estate under chapter
22 633.

23 Sec. 5. Section 635.9, Code 1989, is amended to read as
24 follows:

25 635.9 PETITION FOR ADMINISTRATION ON OTHER BASIS.

26 At any time within one-year four months after letters of
27 administration are issued for a small estate, any interested
28 person may petition for appointment of an executor or
29 administrator for administration of the estate other than as a
30 small estate. In that event the clerk shall notify the person
31 holding letters of appointment for administration of a small
32 estate by ordinary mail not less than ten days before a
33 hearing on the petition. The notice shall be directed to the
34 executor or administrator of the small estate at the
35 executor's or administrator's last known address as reflected

1 in the petition filed under section 635.2 or the report and
2 inventory filed under section 633.361, whichever is filed
3 later.

4 Sec. 6. Section 635.13, Code 1989, is amended to read as
5 follows:

6 635.13 NOTICE -- CLAIMS.

7 ~~The executor or administrator of a small estate may publish~~
8 ~~notice pursuant to section 633.230 or section 633.304.~~ If a
9 petition for administration of a small estate of a decedent is
10 granted, the notice as provided in section 633.230 or section
11 633.304 shall indicate administration as a small estate.

12 Creditors having claims against the estate must file them with
13 the clerk within four months from the second publication of
14 the notice. The notice has the same force and effect as in
15 chapter 633.

16 Sec. 7. Section 635.14, Code 1989, is amended to read as
17 follows:

18 635.14 MINIMUM TIME BEFORE DISTRIBUTION.

19 The executor or administrator shall not distribute property
20 of the estate not exempt from execution, prior to ~~sixty-days~~
21 four months after the issuance of the letters of appointment.

22 EXPLANATION

23 This bill provides for the administration by a grandchild
24 of a small estate where gross value of the estate does not
25 exceed \$15,000. The bill also provides that the name and
26 address of any surviving grandchild is to be included in the
27 petition for administration if the grandchild is an heir or
28 beneficiary of the decedent.

29 The executor or administrator remains personally liable for
30 the payment of debts and charges against the estate to the
31 same extent as an executor or administrator of any other
32 estate. The time period within which the executor or
33 administrator is to file a closing statement is shortened from
34 nine to six months. The estate is to be closed 60 days
35 (previously one year) after the filing of the closing

1 statement is filed, if no actions or proceedings involving the
2 estate are pending. The time within which a person may
3 petition for appointment of an executor or administration of
4 the estate other than as a small estate is shortened from one
5 year to four months after letters of administration are
6 issued. Notice of the granting of a petition for
7 administration as a small estate is to indicate administration
8 as a small estate.

9 The executor or administrator is not to distribute any
10 property not exempt from execution, prior to four months
11 (previously 60 days) after the issuance of the letters of
12 appointment.

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SENATE FILE 506

AN ACT

RELATING TO THE ADMINISTRATION OF SMALL ESTATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 635.1, Code 1989, is amended to read as follows:

635.1 WHEN APPLICABLE.

1. When the gross value of the probate and nonprobate property of a decedent subject to the jurisdiction of this state does not exceed fifty thousand dollars in property subject to taxation under section 450.3, upon the petition of the spouse or a child of the decedent, the clerk shall issue to a resident of the state of Iowa designated by the petitioner letters of appointment of executor or administrator for administration of a small estate if either of the following occur:

- a. The decedent dies intestate and is survived by a spouse, or children, or both.
- b. The decedent leaves a last will and testament and that will is admitted to probate but there is no present administration and the only beneficiaries are a spouse, or children, or both.

2. When the gross value of the probate and nonprobate property of a decedent subject to the jurisdiction of this

state does not exceed fifteen thousand dollars in property subject to taxation under section 450.3, upon the petition of a parent or grandchild of the decedent the clerk shall issue to a resident of the state of Iowa designated by the petitioner, letters of appointment as executor or administrator for administration of a small estate if either of the following occur:

- a. The decedent dies intestate without a surviving spouse or issue children but with a surviving parent or parents or surviving grandchild or grandchildren.
- b. The decedent dies without a surviving spouse or issue children and leaves a last will and testament and that will is admitted to probate but there is no present administration and the only beneficiaries are a surviving parent or parents or surviving grandchild or grandchildren.

3. When the entire estate of the decedent does not exceed the sum of ten thousand dollars after deducting the debts, as defined in chapter 450, upon the petition of a person related within the fourth degree of consanguinity to the decedent, the clerk shall issue to a resident of the state of Iowa designated by the petitioner, letters of appointment as executor or administrator for administration of a small estate if either of the following occur:

- a. The decedent dies intestate without a surviving spouse, issue, or parent, but with heirs that are all within the fourth degree of consanguinity.
- b. The decedent dies without a surviving spouse, issue, or parent, and leaves a last will and testament and that will is admitted to probate but there is no present administration and the only beneficiaries are surviving persons related to the decedent within the fourth degree of consanguinity.

Sec. 2. Section 635.2, Code 1989, is amended to read as follows:

635.2 PETITION REQUIREMENTS.

SF 506

The petition for administration of a small estate must contain the following:

1. The name, domicile, and date of death of the decedent.
2. The name and address of the surviving spouse, if any, the name and address of each child of the decedent, and the name and address of each parent of the decedent, if the parent is an heir or beneficiary of the decedent, and the name and address of each grandchild of the decedent if the grandchild is an heir or beneficiary of the decedent, unless none are beneficiaries under the will of the decedent and the name and address of each relative within the fourth degree of consanguinity of the decedent who is an heir or beneficiary of the decedent, unless none are beneficiaries under the will of the decedent.

3. Whether a will has been admitted without present administration the decedent died intestate or testate, and, if testate, the date of the will.

4. A statement that the probate and nonprobate property of the decedent subject to the jurisdiction of this state does not have an aggregate gross value of more than the amount permitted under the provisions of section 635.1.

5. A statement that petitioner agrees to be personally liable for the payment of debts and charges against the estate to the extent the assets of the estate would be subject to the payment of those debts and charges under estate administration other than for a small estate. The name and address of the proposed executor or administrator.

6. A statement that petitioner agrees to account to any personal representative for all assets of the estate coming into the possession of petitioner if a personal representative is appointed for administration of the estate other than for a small estate.

Sec. 3. Section 635.7, Code 1989, is amended to read as follows:

635.7 REPORT AND INVENTORY -- SHOWING GREATER GROSS VALUE.

The executor or administrator is required to file the report and inventory for which provision is made in section 633.361. Nothing in sections 635.1 to 635.3 shall exempt the executor or administrator from complying with the requirements of section 422.27, 450.22 or 450.58, or the clerk from complying with the requirements of section 633.481. However, the executor or administrator is exempted from filing the certificate of the county treasurer in the county in which the estate is pending that all personal taxes due and to become due have been paid in full. If the inventory and report shows assets subject to the jurisdiction of this state which exceed the total gross value of the amount permitted the small estate under the applicable provision of section 635.1, the clerk shall terminate the letters issued under section 635.1 without prejudice to the rights of persons who delivered property as permitted under section 635.3. The executor or administrator shall then be required to petition for administration of the estate as provided in chapter 633.

Sec. 4. Section 635.8, Code 1989, is amended to read as follows:

635.8 CLOSING BY SWORN STATEMENT.

1. Unless an interested person petitions for administration of the estate on a basis other than for a small estate within one year four months after letters of administration for a small estate are issued, if those letters of administration are not terminated under the provisions of section 635.7, any property of the estate shall then be free of debts and charges, unless a claim has been filed as provided in section 635.13. However, the executor or administrator of the small estate shall not be exonerated from debts and charges of the estate ~~except as otherwise provided in this chapter, and shall be subject to personal liability to the extent provided in section 635.13~~ except as otherwise provided in this chapter, and shall be subject to personal liability to the extent provided in section 635.13 ~~by Subsection 5 for the period of time otherwise provided by law.~~ The executor or administrator is personally liable for the payment of debts

and charges against the estate to the extent the assets of the estate would be subject to the payment of those debts and charges under estate administration other than a small estate.

2. The executor or administrator shall file with the court a closing statement within nine six months from the date of issuance of the letters of appointment, and the closing statement shall be verified or affirmed under penalty of perjury, stating all of the following:

a. To the best knowledge of the person, the gross value of the estate subject to the jurisdiction of this state does not exceed the amount permitted the small estate under the applicable provision of section 635.1.

b. The estate has been fully administered, dispersed, and distributed to persons entitled thereto to the estate and a description of the disbursement and distribution of the estate including an accurate description of all the real estate of which the decedent died seized, stating the nature and extent of the interest therein in the real estate and its disposition.

c. A copy of the closing statement has been sent to all distributees of the estate and to all known creditors and a full account in writing of the administration of the estate has been furnished to the distributees whose interests are affected.

3. If no actions or proceedings involving the estate are pending in the court one-year sixty days after the closing statement is filed, the estate shall close and the clerk shall discharge the administrator or executor.

4. The closing statement shall include a statement as to the amount of fees paid for services rendered by the executor or administrator and the executor's or administrator's attorney in administration of the estate. The fees for the executor or administrator and the executor's or administrator's attorney shall not be in excess of the fees permitted by section 633.197.

5. A closing statement filed under this section has the same effect as final settlement of the estate under chapter 633.

Sec. 5. Section 635.9, Code 1989, is amended to read as follows:

635.9 PETITION FOR ADMINISTRATION ON OTHER BASIS.

At any time within one-year four months after letters of administration are issued for a small estate, any interested person may petition for appointment of an executor or administrator for administration of the estate other than as a small estate. In that event the clerk shall notify the person holding letters of appointment for administration of a small estate by ordinary mail not less than ten days before a hearing on the petition. The notice shall be directed to the executor or administrator of the small estate at the executor's or administrator's last known address as reflected in the petition filed under section 635.2 or the report and inventory filed under section 633.361, whichever is filed later.

Sec. 6. Section 635.13, Code 1989, is amended to read as follows:

635.13 NOTICE -- CLAIMS.

~~The executor or administrator of a small estate may publish notice pursuant to section 633.230 or section 633.304.~~ If a petition for administration of a small estate of a decedent is granted, the notice as provided in section 633.230 or section 633.304 shall indicate administration as a small estate.

Creditors having claims against the estate must file them with the clerk within four months from the second publication of the notice. The notice has the same force and effect as in chapter 633.

Sec. 7. Section 635.14, Code 1989, is amended to read as follows:

635.14 MINIMUM TIME BEFORE DISTRIBUTION.

The executor or administrator shall not distribute property of the estate not exempt from execution, prior to ~~sixty-days~~ four months after the issuance of the letters of appointment.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 506, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved 4/14, 1989

TERRY E. BRANSTAD
Governor